



State of West Virginia
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
Office of Inspector General
Board of Review
P. O. Box 1736
Romney, WV 26757

Joe Manchin III
Governor

Martha Yeager Walker
Secretary

October 22, 2007

Dear Ms. _____:

Attached is a copy of the findings of fact and conclusions of law on your hearing held October 11, 2007. Your appeal was based on the Department of Health and Human Resources' decision to deny pre-authorization coverage approval for Rt. Knee Arthroscopy surgery.

In arriving at a decision, the State Hearing Officer is governed by the Public Welfare Laws of West Virginia and the rules and regulations established by the Department of Health and Human Resources. These same laws and regulations are used in all cases to assure that all persons are treated alike.

Current Medicaid regulations provide as follows: The West Virginia (WV) Medicaid Program offers a comprehensive scope of medically necessary medical and mental health services to diagnose and treat eligible members. Specified services require prior approval and must be determined medically necessary and appropriate in order for the services to be covered. (West Virginia Bureau for Medical Services Provider Manual § 500)

The information submitted at the hearing reveals that the facility requesting prior approval failed to justify medical necessity and appropriateness.

It is the decision of the State Hearing Examiner to **uphold** the Department's action to deny pre-authorization for the procedure.

Sincerely,

Sharon K. Yoho
State Hearing Examiner
Member, State Board of Review

cc: Chairman, Board of Review
Evelyn Whidby, BMS

WEST VIRGINIA DEPARTMENT OF HEALTH & HUMAN RESOURCES

_____,

Claimant,

v.

Action Number 07-BOR-2085

West Virginia Department of Health & Human Resources,

Respondent.

DECISION OF THE STATE HEARING EXAMINER

I. INTRODUCTION:

This is a report of the State Hearing Officer resulting from a fair hearing concluded on October 11, 2007 for _____. This hearing was held in accordance with the provisions found in the Common Chapters Manual Chapter 700 of the West Virginia Department of Health and Human Resources. This fair hearing was convened on October 11, 2007 on a timely appeal filed August 6, 2007.

II. PROGRAM PURPOSE:

The program entitled Medicaid is set up cooperatively between the Federal and State Government and administered by the West Virginia Department of Health and Human Resources.

The 1965 Amendments to the Social Security Act established, under Title XIX, a Federal-State medical assistance program commonly known as Medicaid. The Department of Health and Human Resources administers the Medicaid Program in West Virginia in accordance with Federal Regulations. The Bureau for Medical Services, (BMS), is responsible for the development of regulations to implement Federal and State requirements for the program. The Department of Health & Human Resources processes claims for reimbursements to providers participating in the program.

III. PARTICIPANTS:

Claimant's Witnesses:

_____, Claimant

Department's Witnesses:

Mary Hamilton, Claims Representative, BMS

Sharon Lopez, WV Medical Institute, (WVMI)

Presiding at the hearing was Sharon K. Yoho, State Hearing Examiner and a member of the State Board of Review.

IV. QUESTION TO BE DECIDED:

The question to be decided is whether the Department is correct in denying a request of Pre-Authorization for Right Knee Arthroscopy surgery.

V. APPLICABLE POLICY:

West Virginia BMS Provider Manual Chapter § 320.3, 502, 508.1 and Attachment 3
InterQual 2007 – Arthroscopy, Surgical, Knee

VI. LISTING OF DOCUMENTARY EVIDENCE ADMITTED:

- D-1 West Virginia Bureau of Medical Services Manual Chapter 508, 508.1
- D-2 WVMi Medicaid Outpatient Services Authorization Request Form dated July 13, 2007
- D-3 McKesson InterQual 2007 – Procedures Criteria
- D-4 Client Notification of denial dated July 25, 2007
- D-5 Physician Notification of denial dated July 25, 2007

VII. FINDINGS OF FACT:

- 1) On July 25, 2007, the claimant's physician from [REDACTED] WV submitted a request for prior Authorization for Right Knee Arthroscopy.
- 2) The request stated that the clinical reasons for the procedure to be "tenderness on lateral synovial condyle (anterior edge) a palpable string sliding over the protureter ankle, no significant effusion." The physician noted under (Relative Diagnostic and Outpatient Studies) "X-ray – neg". The physician did not note anything in the areas of (Related Medications, Treatments, and Therapies).
- 3) The WVMi staff reviewed the request and made a determination that the information given on the request did not meet the clinical indication criteria outlined on the InterQual to justify that the procedure meets the medical necessity criteria.
- 4) WVMi issued a denial notice on July 25, 2007 to both the claimant and the requesting Physician. Both notices advised that the authorization was denied due to there being no trial of conservative treatment and no MRI. The notice issued to the Physician explained why the request was denied and what additional information was needed for a re-consideration. It also provided the process for which to request a re-consideration. The Department did not receive a request for a re-consideration.
- 5) The claimant submitted a hearing request, which was received by the Department on August 6, 2007.
- 6) The InterQual 2007 – Procedures Criteria lists INDICATIONS for Arthroscopy, Surgical, Knee as:

- 300 Synovectomy
 - 310 Symptoms (ONE)
 - 311 Knee pain
 - 312 Given way by HX
 - 320 Tenderness over suspected plica
 - 330 Imaging nondiagnostic for etiology of Sx/findings
- 340 Continued Sx/findings after Rx (ALL)
 - 341 NSAID (ONE)
 - 1 Rx >4wks
 - 2 Contraindicated/not tolerated
 - 342 PT >6wks
 - 343 Activity modification >6wks

- 7) West Virginia Bureau for Medical Services Provider Manual § 508.1:
 Prior Authorization Requirements For Outpatient Services
 Medicaid covered outpatient services, which require medical necessity review and prior authorization are:
4. Certain surgeries performed in place of service 22 (Outpatient Hospital) and 24 (Ambulatory Surgical Center) will require prior authorization, effective February 15, 2006. The selected surgeries that require authorization through the BMS review contractor are listed in Attachment 3, along with the PA form that may be utilized.

Attachment 3
 29875 Knee arthroscopy/surgery

- 8) West Virginia Bureau for Medical Services Provider Manual § 500: INTRO:
 The West Virginia (WV) Medicaid Program offers a comprehensive scope of medically necessary medical and mental health services to diagnose and treat eligible members. Covered and authorized services must be rendered by enrolled providers within the scope of their license and in accordance with all State and Federal requirements. Any service, procedure, item, or situation not discussed in the manual must be presumed non-covered unless informed otherwise in writing by the Bureau for Medical Services (BMS).
- 9) West Virginia Bureau for Medical Services Provider Manual § 320.3:
 Obtain Prior Authorization:
 It is the responsibility of the provider of the service to secure prior approval before rendering the service.
 The provider must submit written documentation demonstrating the medical necessity and appropriateness of the proposed treatment.

- 10) West Virginia Bureau for Medical Services Provider Manual § 502:

Medical Necessity, All services must be medically necessary and appropriate to the member's needs in order to be eligible for payment. The medical records of all members receiving Practitioner Services must contain documentation that establishes the medical necessity of the service.

Important: The fact that a provider prescribes, recommends, or approves medical care does not in itself make the care medically necessary or a covered service. Nor does it mean that the patient is eligible for Medicaid benefits. It is the provider's responsibility to verify Medicaid eligibility and obtain appropriate authorizations before services are rendered.

VIII. CONCLUSIONS OF LAW:

- 1) Policy provides that prior authorization is required for the proposed Knee Arthroscopy and that necessity and appropriateness must be proven. The providers request for prior authorization did not include adequate information to prove medical necessity for the procedure. The request did not include any information regarding medications, treatments or therapies.
- 2) The InterQual dictates in section 340 that information regarding medications, physical therapy and activity modifications must be provided. The Department did not receive any additional information from the provider following the denial nor did they receive a request for reconsideration.
- 3) The Department followed proper policies and procedures in their processing of the request and their ultimate denial was due to the provider's failure to document and demonstrate the medical necessity and appropriateness of the proposed procedure.

IX. DECISION:

It is the decision of the State Hearing Officer to **uphold** the Department's denial of the request for prior authorization for the Knee Arthroscopy procedure.

X. RIGHT OF APPEAL:

See Attachment.

XI. ATTACHMENTS:

The Claimant's Recourse to Hearing Decision.

Form IG-BR-29

ENTERED this 22nd Day of October 2007.

Sharon K. Yoho
State Hearing Examiner